

# Discussion Paper

C166  
2006

Zentrum für Europäische Integrationsforschung  
Center for European Integration Studies  
Rheinische Friedrich-Wilhelms-Universität Bonn

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## **The new German European Policy** Challenges to Decentralised EU Policy Coordination

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ISSN 1435-3288

ISBN-10: 3-936183-66-X  
ISBN-13: 978-3-936183-66-5

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All views expressed in this Paper are solely those of the author and do not constitute any official statements on behalf of any of the mentioned institutions.

*Christiana Tings*

## **The new German European Policy**

### **Challenges to Decentralised EU Policy Coordination**

#### **1. Introduction: A new German EU policy?**

The inauguration of a new government gives the unique opportunity for political renewal. This could also hold true for the German policy towards European integration and the European Union (EU). A grand coalition consisting of the Christian-Democratic Union (CDU) and the Social-Democratic Party (SPD) came to power in November 2005. Within the theoretical framework of *continuity* and *change* of German foreign policy this paper compares the German EU policy during the mandate of Gerhard Schröder (SPD) and Angela Merkel (CDU), substantiated by possible institutional amendments. Does the change of government entail a *new* German EU policy?

Traditionally, the foreign policy of the Federal Republic of Germany is marked by a high degree of continuity and reliance on European cooperation<sup>1</sup>. The former coalition consisting of the SPD and the Green party introduced a pragmatic approach towards the EU and on the international stage<sup>2</sup>. Chancellor Schröder pursued a new style of governance that was more self-assured and stressed national interests. This also influenced the

- 1 See Lamatsch, Dorothea (2004). Deutsche Europapolitik der Regierung Schröder 1998 - 2002: von den strategischen Hügeln zur Mühsal der Ebene. Hamburg: Kovac.
- 2 Müller-Brandeck-Bocquet, Gisela et al. (2002). Deutsche Europapolitik von Konrad Adenauer bis Gerhard Schröder. Opladen: Leske + Budrich, p.215.

substantive German EU policy. How does the current government address the dichotomy between traditional support for European integration and new pragmatism?

Formally, the Chancellor and the Cabinet set – based on party decisions – the policy guidelines of the German government. However, in contrast to international relations theories that often solely focus on national interests, institutions play a decisive role in the German interaction with the EU<sup>3</sup>. This is called the supremacy of procedures over policies<sup>4</sup> and has been criticised in the past<sup>5</sup>. Germany's ability to act, its *EU capability*, is decisive for the nation's effective representation<sup>6</sup> and the future development of the whole Union. Especially during Germany's EU Council Presidency in the first half of 2007, the first to be organised in a triplet of states (Germany – Portugal – Slovenia), this will be tested. Did the change of government affect the coordination mechanisms or is Germany's *EU capability* constrained by institutionalised continuity?

- 3 Bulmer, Simon; Jeffery, Charlie, Paterson, William (1998). Deutschlands europäische Diplomatie: Die Entwicklung des regionalen Milieus. in: Weidenfeld, Werner. Deutsche Europapolitik, Bonn: Europa Union Verlag, pp. 11 - 102.
- 4 See Janning, Josef & Meyer, Patrick (1998). Deutsche Europapolitik – Vorschläge zur Effektivierung. in: Weidenfeld, Werner. Deutsche Europapolitik, Bonn: Europa Union Verlag, pp. 267 - 286.
- 5 See Derlien, Hans-Ulrich (2000). German EU-Policy Coordination – Failing Successfully? in: Kassim, Hussein, Peters Guy & Wright, Vincent. The National Coordination of EU Policy. Oxford:UP, pp. 54-78; Bulmer, Simon; Maurer, Andreas & Paterson, William (2001). Das Entscheidungs- und Koordinationssystem deutscher Europapolitik: Hindernis für eine neue Politik? in: Schneider Heinrich, Jopp Mathias & Schmalz Uwe (eds.). Neue Deutsche Europapolitik Rahmenbedingungen - Problemfelder – Optionen, Bonn: Europa Union Verlag.
- 6 Wessels, Wolfgang (2006). Deutsche Europapolitik – Strategien für einen Wegweiser: Verstärkter Nutzen durch verbesserte Integration? in: Wessels & Diedrichs (eds.) Die neue Europäische Union im vitalen Interesse Deutschlands?, Berlin: Netzwerk Europäische Bewegung & Europa Union Deutschland. pp.135-149.

### *Methodology*

The question whether the change of government led to a *new* German EU policy and contributed to the country's EU capability gains importance with the upcoming EU Council Presidency in 2007.

First, the concept of *continuity and change* will be developed in order to build a theoretical framework for the forthcoming analysis of the *new* German EU policy. It is based on the study of relevant literature of continuity and change in foreign policies with special focus on German-EU relations. The concept of continuity and change, which was mostly explored after the reunification of Eastern and Western Germany and the adoption of the Treaty of Maastricht, will be transferred to the current research question.

Then, the most visible political actors of the former and current government, that is to say the German Chancellors and their parties, will be compared. Due to the federal structure of the German state, regional governments also play a decisive role in EU policies. The interplay between the different levels of government would however overstretch the scope of this paper and remains to be explored in more detail. The present empirical analysis of the federal government is based on the coalition treaties, government policy statements and important political action. Subsequently, the paper evaluates the influence of the new government on the institutions that shape German EU policy. Next to the relevant actors it will be shown how decisions are formed, represented and communicated. The institutional structure is developed on the basis of organisation charts, relevant literature and interviews in various institutions.<sup>7</sup>

## **2. Continuity and Change in German EU Policy**

In the last decades, Germany evolved from a pariah of the international community to an equal partner<sup>8</sup>. Similar observations can be made with

7 This paper is based on a Master thesis presented in June 2006 as part of the Master of European Studies at the Center for European Integration Studies in Bonn.

8 Bierling, Stephan (2005). *Die Außenpolitik der Bundesrepublik Deutschland : Normen, Akteure, Entscheidungen*, München: Oldenbourg, p.307.

regard to the country's interaction in the EU. While at the beginning of European cooperation one major goal was to contain Germany's power such as through the establishment of the European Coal and Steel Community (ECSC), today the country is a major player in the EU. German national interest representation, albeit in the framework of the European cooperation, gained importance again. The new focus on domestic goals stands in contrast to its self-imposed obligation to support European integration even against short-term national interest. Since 1992, European integration is an explicit goal of the German state. According to Art. 23 GG<sup>9</sup> the Federal Republic of Germany shall contribute to the development of a united Europe. The German government should therefore align its domestic political action with the Community's interest<sup>10</sup>.

German European policy has been analysed in the context of *continuity and change* especially after the reunification of Eastern and Western Germany and the adoption of the Treaty of Maastricht<sup>11</sup>. The general conclusion was that Germany's foreign relations are subject to a high degree of continuity even though incremental adjustments corresponding to structural changes in the international system and the EU itself have been made. Uwe Schmalz formulated three perspectives on the possible development of German EU policy<sup>12</sup>. These will be used as reference points for the subsequent comparison of the current and former government's EU policy and its institutional structure.

- The *thesis of continuity* entails that European integration coincides with German national preferences and is part of the German *raison d'état*. With increasing interdependency of international politics and economy, Germany continues to support further European cooperation, even if this is against short-term national interest.

9 German basic law – Grundgesetz.

10 Meyer, Franz (2002). Nationale Regierungsstrukturen und europäische Integration. EuGRZ, pp.111 – 124, p.117.

11 See Schmalz, Uwe (2002). Deutsche Europapolitik nach 1989/90: Die Frage von Kontinuität und Wandel. in: Heinrich Schneider, Mathias Jopp & Uwe Schmalz (Eds.). Eine neue deutsche Europapolitik? Rahmenbedingungen - Problemfelder – Optionen. Bonn: Europa Union Verlag; Müller-Brandeck, (2002); Bierling (2004).

12 Schmalz (2002), pp. 62-68.

- The *thesis of change* states that after the end of the Cold War and with Germany's position as central power in Europe important rationales for European integration are obsolete. In the future, the country will focus on its domestic interests that can equally be reached through European cooperation and unilateral initiatives. Moreover, the country could claim a leading position in the EU.
- The *pragmatic thesis* detects an increasing gap between political visions with regards to the EU and daily politics. European integration remains a German priority. Yet, EU politics are pursued less idealistically and more pragmatically. Further integration has to be reasonable and necessary. Germany's overall influence will increase.

In the context of *continuity and change* of German EU policy, the paper analyses the political action and institutional structure of the grand coalition in comparison to the former government. It will be tested in how far the style of governance, policies and administration changed from the mandate of Chancellor Schröder to the appointment of Angela Merkel as Head of Government.

### **3. The Governing Parties and the Chancellors**

The political system of Germany foresees a high number of actors that shape its EU policy. These are among others the Chancellor, the Cabinet, the German Parliament (Bundestag); the Federal Council (Bundesrat); the Constitutional Court and the Federal States (Länder). In addition, interest groups and social movements participate in the policy-making process<sup>13</sup>. Especially, German Chancellors can play – and have done so in the past – an important role in German EU policies<sup>14</sup>. Therefore, the shift from Mr Schröder to Mrs Merkel as Head of Government might have also led to substantive changes in German EU policy. The influence of domestic actors on European policies, especially the constitutional right of the Federal

13 Haftendorn, Helga (1999). Kontinuität und Wandel des außenpolitischen Entscheidungsprozesses in der Bundesrepublik Deutschland, Politische Vierteljahresschrift, 40 (PVS-Sonderheft 30), pp. 247-257, 248.

14 See Bulmer (2001), Müller-Brandeck (2002).

States since the Treaty of Maastricht, limit the Chancellor's capacity to act. With the support of the Constitutional Court the Federal States have for example contributed to the increasing German reluctance towards further expansion of EU competences<sup>15</sup>. The Chancellors, based on the political dialogue in their own party and between the coalition partners, nevertheless shape German EU policy and represent it in the European Council.

### *The Coalition Treaties*

The coalition treaties of governments can be seen as compromises and accumulations of the participating parties' positions and bases for government action. The former coalition between the Social-Democratic and the Green Party was in power from 1999 until 2005. Formally, it carried on with the traditional German policy principle of undisputed support for European integration<sup>16</sup>. In the coalition treaty for the second government term, the SPD and the Green Party pledged: "We want to encourage the European integration process. Widening and deepening of the EU are the main focus of our European political action"<sup>17</sup>. On the other hand, the importance of national actors as well as the cooperation between the biggest member states France and Germany was stressed<sup>18</sup>: "The Franco-German cooperation will also play a decisive role in the future. Through a common responsibility both countries have consistently given important impetus to European integration"<sup>19</sup>. Moreover, the German government developed a strong bi-lateral link with Russia, which sometimes went against EU interests e.g. concerning a common European energy policy. In the context of continuity and change the former government as exemplified by the coalition treaty pursued a more pragmatic approach<sup>20</sup>. National interests were advocated multilaterally, but also through unilateral action.

15 Knelangen, Wilhelm (2005). Eine neue deutsche Europapolitik für eine andere EU?, Aus Politik und Zeitgeschichte, pp.38-39.

16 Lamatsch, (2004), p.77.

17 SPD & The Greens. (2002). Coalition Treaty 2002 – 2006 Renewal – Equity – Sustainability, p.77.

18 Müller-Brandeck (2002), p. 215.

19 Coalition Treaty 2002, p.78.

20 See Knelangen (2005).



Prior to the inauguration of the new German government on 12 November 2005, the EU experienced one of its most severe crises. After the negative referenda on the European Constitutional Treaty in France and in the Netherlands, the European Heads of State and Government called in summer 2005 for a reflection phase on the future of Europe, which has not led to any concrete results so far. Germany is expected to present a road map during its Council Presidency in spring 2007. Nevertheless, European affairs only played a minor role in the last national election campaign<sup>21</sup>. The main opponents CDU and SPD reached an almost equal share of votes and had to form a grand coalition. All political action now depends on extensive bargaining between the two parties, of which the SPD was also in the former governing coalition. Therefore, the German EU policy was not likely to change significantly<sup>22</sup>. In the coalition treaty the Christian-Democrats and the Social Democrats declared: “The EU guarantees political stability, security and prosperity in Germany and Europe. Only together the Europeans can advocate their interests successfully”<sup>23</sup>. This statement indicates a more pro-European stance of the current government and a renewed commitment for multilateral cooperation.

### *Chancellor Gerhard Schröder compared to Angela Merkel*

As seen in the coalition treaty the Schröder government continued with German engagement for European integration but at the same time increased unilateral interest representation. In the light of continuity and change, the German EU policy was pursued in a more pragmatic way, which also entailed the application of a cost-benefit analysis<sup>24</sup>. As illustrated in the institutional part of this paper, the former coalition appointed the Ministry of Finance as major actor in European affairs. Furthermore,

21 Marhold, Hartmut. Deutsche Europapolitik nach dem Regierungswechsel. Integration 1/2006, pp.3-22, 1.

22 Nijhuis, Tom (2006). The European Policy of the Grand Coalition. in: The Foreign Policy of the Germany's Grand Coalition Base line and first assessment of the Beginning of Merkel's Team, Foreign Policy in Dialogue Vol 6 Issue 18, pp.25-23, 25.

23 CDU, CSU & SPD (2005). Coalition Treaty Together for Germany. With courage and humanity, p. 126.

24 See Knelangen (2005).

Chancellor Schröder took part in an initiative of the net contributors to limit the community budget to 1 % of GDP. Even though Germany allowed for some deviation at the European Council in July 2005, the adamant position of France and Great Britain finally led to the failure of a budgetary agreement. Moreover, the doctrine *European policy is domestic policy* gained importance during the mandate of Chancellor Schröder. As the interdependence of domestic and European policies has grown through the extension of the EU's competences, national policy goals can often better be pursued at supra-national level<sup>25</sup>. Chancellor Schröder applied this principle e.g. during the blockade of the Used Car Directive<sup>26</sup> and the resistance to implement the Tobacco Advertisement Directive<sup>27</sup>. Even though Schröder was increasingly interested in European cooperation, the examples show that the government was less willing to sacrifice national interests for the support of European integration<sup>28</sup>.

The first political activities of the grand coalition under Chancellor Merkel indicated the return to more traditional characteristics of German foreign and European policy<sup>29</sup>. She underlined the need for European political cooperation in her government declaration in November 2005<sup>30</sup> and in her

25 Janning & Meyer (1998), p. 267, Harnisch, Sebastian, Schneider, Siegfried (2003). Europa bauen – Deutschland bewahren: Rot-grüne Europapolitik. in: Maull, Hanns W.; Harnisch, Sebastian (Eds.). Deutschland im Abseits?: Rot-grüne Außenpolitik 1998 – 2003, Baden-Baden: Nomos, p.65.

26 The directive obliged car manufacturers recycle used cars or to pay a fee. This would have implied high costs for the German car industry. After the directive had already been agreed in the Committee of the Permanent Representatives to the EU (Coreper), the German government – against the usual procedure – gathered a blocking majority to stop it in the Council of Ministers, see Bulmer (2001), p.14.

27 Despite extensive lobbying of Germany, the European ministers agreed in 2003 on Directive 2003 / 33 EC, which led to a ban on tobacco advertising in all transnational media. Germany challenged the directive at the ECJ on grounds that local media fall outside EC competences. Advocate General Philippe Léger concluded in June 2006 that the directive falls within Internal Market provision. The current government pledged to implement the directive as soon as possible, see Balzan. Berlin's legal action on tobacco advertising dealt a blow, EUOBSERVER. Derived from the Internet on 10th of June 2006: <http://euobserver.com/9/21843>.

28 Harnisch & Schneider (2003), p. 65, p. 75.

29 Nijhuis (2006), p. 27.

30 Merkel, Angela (2005 November) Government policy statement.

first parliamentary speech on European affairs as Chancellor in May 2006<sup>31</sup>. Moreover, Merkel repeatedly declared: “We need the European Constitution”. Shortly after the inauguration, in December 2005 Germany acted as mediator between France, Great Britain and the small and medium member states as Poland to reach a deal on the pending EU financial framework. Commentators wrote: “If this should prove to be the new style of German European diplomacy, Germany might be back on centre stage of the EU without creating suspicions about ‘hegemonic’ ambitions or about a Franco-German directorate”<sup>32</sup>. The German government also pledged to implement pending EU laws such as the Tobacco Advertisement Directive<sup>33</sup> which was still not implemented. The new Chancellor continued the initiative of the former government to advocate a global role for the EU. In the framework of the Common Foreign and Security Policy (CFSP) Germany for the first time led a military mission, which was sent to the Democratic Republic of Congo. It had the task to support the United Nations peacekeeping force (MONUC) during the elections in 2006. Chancellor Merkel commented in her European policy statement: if European values are taken seriously, we cannot restrict our action to internal enforcement. We also have to help there, where others cannot protect themselves<sup>34</sup>.

However, in the first months of governance the German government again focused on domestic prerogatives with regard to EU policies and continued to reach for national preferences. It blocked the opening of the labour market through the amendment of the Service Directive. Due to pressure of Germany and France and against the opposition of Great Britain and most new member states the completion of the internal market was impeded<sup>35</sup>. Moreover, during the spring summit in March 2006, Chancellor Merkel was reluctant towards the development of a common European energy pol-

31 Merkel, Angela (2006 May) European policy statement.

32 Schild, Joachim (2005 December). Getting Back on Track? The EU's New Financial Perspective 2007-13, Trier, [www.Deutsche-Aussenpolitik.de](http://www.Deutsche-Aussenpolitik.de).

33 See Balzan (2006).

34 Merkel (2006 May).

35 Kazim, Hasnain (2006 May). Dienstleistung in der EU Deutsche Regeln für den Klempner aus Polen, Spiegel. Derived from the Internet on 10th of June 2006: <http://www.spiegel.de/wirtschaft/0,1518,418798,00.html>.

icy. She opposed further expansion of EU competences and in addition postulated the abolishment of unnecessary EU legislation<sup>36</sup>. In conclusion, the new German government continues with the pragmatic approach of Chancellor Schröder even though returning to multilateral methods as seen in the coalition treaty and first policy action. In contrast to the old coalition, Germany's role as mediator during European negotiations became more prominent again<sup>37</sup>. Nevertheless, the pro-European rhetoric is not always enacted in daily politics. As in the pragmatic thesis the gap between political visions in contrast to actual policy action of the current German government has increased. As President of the Council in Spring 2007, Germany is bound to represent the Communities position and has to set aside its domestic interest. Then, the EU capability of Chancellor Merkel's government as well as the institutional structures will be decisive.

#### ***4. Supremacy of procedures over policies?***

Authorised individual or collective actors define their position towards a domestic or international policy. Structures and processes that drive political action restrain their decisions and behaviour<sup>38</sup>. The political actors that shape German EU policy are largely dependent on institutional prerogatives. Janning and Meyer called this the supremacy of procedures over policies<sup>39</sup>. In comparison to more centralised systems such as in Great Britain and France, the German EU policy coordination has been criticised as fragmented and ineffective<sup>40</sup>. Institutionalised continuity might even restrain a change of the overall German EU policy.

With the inauguration of the *new* German government the traditional structure of German EU decision-making and coordination did not change but was even restored. The Ministry of Finance lost its role as coordination

36 Merkel (2006 May).

37 Nijhuis (2006), p. 27.

38 Haftendorn (1999), p. 246.

39 See Janning, Meyer (1998).

40 Derlien, Hans-Ulrich, German EU-Policy Coordination – Failing Successfully? (2000). in: Kassim, Hussein, Peters Guy & Wright, Vincent. The National Coordination of EU Policy. Oxford:UP, pp. 54-78.

unit<sup>41</sup> as before the mandate of Chancellor Schröder. Now the Ministry of Economics (and Technology) again coordinates substantive European policies, while the Foreign Ministry is mostly in charge of bilateral and foreign relations<sup>42</sup>. The partition of EU coordination units leads to rivalries between the ministries and can obstruct a coherent German interest representation<sup>43</sup>. Next to the split management, German policies in general and therefore also in EU matters are shaped according to the departmental principle (Art. 65 (2) GG, *Ressortprinzip*). Each policy or government initiative is prepared and decided upon in the responsible unit of a particular ministry<sup>44</sup>. The Chancellor only sets policy guidelines and has the right to take final decisions (Art. 65 (1) GG *Richtlinienkompetenz*)<sup>45</sup>. Consequently, all German ministries are potentially involved in the European policy-process. Each of them has to have EU expertise and the German position has to be coordinated between a multitude of actors<sup>46</sup>. There is no central coordination unit as in other European member states. External pressures to centralise the EU policy making mechanism in Germany have not been strong enough<sup>47</sup>. Therefore, the German decision-making and coordination system for EU policies can still be characterised as decentralised and fragmented<sup>48</sup>. The negative assessment stands in contrast to the influential role that the country played throughout the European integration process. Therefore, other scholars comment that its institutions correspond to the complex European structures e.g. the organisational separation of Coreper I and II<sup>49</sup>. In addition, the inclusion of each ministry enables the direct contact of

41 BKOrgErl: Organisation order of Chancellor Schröder, Bonn, 27 October 1998.

42 BKOrgErl: Organisation order by Chancellor Merkel, Berlin 22 November 2005.

43 Derlien (2000), p. 56.

44 The central government's power is furthermore restraint by the Federal States.

45 Meyer (2002), p. 115.

46 Fuchs, Anja (2004). Does Central Organisation Matter? Thesis presented for the Degree of Master of European Studies, College of Europe; Bulmer, 2001; p. 17; Meyer (2002), p. 116.

47 Fuchs (2004), p. 54.

48 Lamatsch (2004), p. 37.

49 See Maurer, Andreas (2003). Germany: fragmented structures in a complex system. in: Wessels, Wolfgang, Maurer, Andreas & Mittag, Jürgen (Eds.) Fifteen in to one? The EU and its Member States, Manchester, pp. 115-149.

German and EU civil servants in order to increase the technical expertise of both actors. However, unlike in the national policy cycle, the domestic administration is not directly involved in the preparation of the respective legislation. Among the European institutions the Commission is the sole institution that proposes legislation. In addition, the European policy making process often follows short time frames, that make the consultation of the German Bundestag and sometimes even between ministries difficult.

### *Competing Actors of German EU policies*

As laid down in Art. 23 GG and Art. 79 GG, the German Parliament (*Bundestag*) and the Federal Council (*Bundesrat*) need to approve Community legislation that affects the German basic law. In order to fulfil this task they ought to be informed continuously about European affairs by the government<sup>50</sup>. Both institutions have special EU committees; however, in practice the high number of legislative initiatives and short policy cycles limit their participation<sup>51</sup>. The European Constitutional Treaty would have given national parliaments ex-ante control to legitimate EU legislation. However, until now the German administration retains a high degree of independence in European affairs. The main actors are the Chancellor's Office, the Foreign Ministry and the Ministry of Economics, which are supported by the Permanent Representation of Germany to the EU in Brussels.

As seen above the German Chancellor has the right to set general policy guidelines and to settle disputes in the Cabinet. The Chancellor's Office however only contains reflecting units (*Spiegelreferate*) of the ministries in charge of particular policies. Also in European affairs it only assumes issues of special importance such as the preparation of European Council meetings and priorities of the Chancellor e.g. the Lisbon Strategy and the German Council Presidency in cooperation with the ministries. The Chan-

50 Law on Cooperation between Federal Government and the German Bundestag Concerning EU Affairs (EUZBBG) and the Law on Cooperation between Federal Government and the Federal States in EU Affairs (EUZBLG).

51 Thomas, Anja & Wessels, Wolfgang (2006). *Die Deutsche Verwaltung und die Europäische Union*, Bonn: Bundesakademie für öffentliche Verwaltung im Bundesministerium des Inneren, p.156.

cellor's office has to balance the interests of the political parties in government, which limits its action capability<sup>52</sup>. In general, the German electoral system favours party diversity, that makes it necessary to form coalition governments. As all parties involved want to decide upon the increasingly important EU affairs, the centralisation of German EU policy coordination within one ministry or even the Chancellor's Office is therefore politically undesirable. With the current government, Chancellor Merkel (CDU) and the Ministry of Economics (CSU – the Christian Social Union of Bavaria as sister party of the CDU) have to cooperate with the SPD-led Foreign Ministry and Ministry of Finance. As a result European policies might be subordinated to domestic party interests<sup>53</sup>. The prior shift to the Ministry of Finance in 1998 was also partly due to power struggles between the former Chancellor Schröder and his deputy Oscar Lafontaine<sup>54</sup>. A similar assessment can be made for the recent organisational amendments. The important EU coordination was reassigned to the Ministry of Economics in order to secure the influence of the CDU/CSU. Yet, the ministry of Finance has not lost all its EU responsibilities so that the renewed shift of competences diminished transparency. More actors in the already complex structure make decisions and a change in the status quo difficult<sup>55</sup>.

Today, the Foreign Ministry together with the Ministry of Economics is responsible for the coordination of European affairs. It aligns the German position for Coreper II, which are intergovernmental policies such as the Common Foreign and Security Policy, Justice and Home Affairs, institutional reforms as the Constitutional Treaty and bilateral relations. The Foreign Ministry is also in charge of general EU initiatives such as the Lisbon Strategy, the European Neighbourhood Policy and future EU enlargement. With the expansion of EU competences and domestic changes it could strengthen its position and set up special EU coordination units<sup>56</sup>. This

52 Thomas (2006), p. 114f.

53 Haftendorn (1999), p. 250.

54 Bulmer (2001), p. 24.

55 Tsebelis, George (2002). *Veto Players. How Political Institutions Work*. Princeton, p. 17f

56 Bulmer (2001), p. 11; Thomas (2006), p. 141.

process also continued after the change in government e.g. it holds the secretary for the German Council Presidency in 2007. The Foreign Ministry's action capacity is nonetheless limited by other ministries and the Chancellor's Office. As the Ministry of Economics is in charge of Coreper I, the Foreign Ministry has almost no competences in substantive EU policies. Moreover, the Chancellor's Office has the right to assume the leading position for important issues.

The Ministry of Economics traditionally plays a decisive role in the German EU policy coordination, also due to the initial EU focus on economic integration. Since the 1950s, the ministry, which supported the Chancellor's Office during the negotiations for the European Coal and Steel Community (ECSC), coordinates German EU policy. It is responsible for Coreper I activities, which comprise e.g. the Internal Market, structural policies, trade relations and most other Community policies (EC)<sup>57</sup>. Therefore, it has to integrate diverging issues that are not part of its portfolio such as education and environmental affairs<sup>58</sup>. In addition, its activities such as the Lisbon Strategy and energy policy overlap with the responsibility of other ministries and the Chancellor's Office. Even though the Ministry of Economics regained general EU policy coordination after the last change in government, it has lost its leading role. The Ministry of Finance retained the responsibility of the Ecofin<sup>59</sup> Council, which is part of Coreper II and continues to ensure the budget compliance of all EU policies. The Ministry of Nutrition, Agriculture and Consumer Protection is another example for ministerial autonomy. It is directly in charge of the Agriculture and Fisheries Council and stays even outside inter-ministerial coordination units described below<sup>60</sup>. The sharing of responsibilities between the different ministries requires extensive coordination before a German position can be discussed and communicated on the European level.

57 For a comprehensive study on EU policy system see: Hix, Simon. (2005). *The Political System of the EU*, New York: Palgrave.

58 Thomas (2006), p. 143.

59 Council of EU Economic and Finance Ministers (Ecofin).

60 Bulmer (2001), p.12.



In the Permanent Representation in Brussels civil servants from all ministries come together to represent Germany in EU negotiations and provide their government with early-warning reports. The Head of the Permanent Representation is a high-ranking ambassador from the Foreign Ministry, while the Vice Representative is sent from the Ministry of Economics. The German delegates to the EU act on behalf of the Federal Government and depend on timely instructions (*Weisungen*). This is especially important as “member states frequently trade support between themselves for one issue against another”<sup>61</sup>. The need for domestic coordination in Berlin makes an early position and cooperation with other member states difficult. Germany might even have to abstain in the voting procedure due to delayed instructions for the permanent representative. In Great Britain the Cabinet Office coordinates the European activities of all national ministries. The French *Sécretariat général des affaires européennes* (SGAE) is directly subordinated to the prime minister and represents France in European negotiations. Poland has a special minister without portfolio for European affairs. In comparison with more centralised governments the German system makes effective national interest representation difficult. Furthermore, the changing responsibility according to subject matters can lead to confusion in other member states about who the relevant actor is<sup>62</sup>.

### *Horizontal and Vertical Coordination*

Special coordination units have been established to align and communicate the German position. However, pressures of Europeanisation to centralise and examples of other member states have not been strong enough to alter the basic structure of the German state<sup>63</sup>. The ministry with the broadest jurisdiction, after the consultation of other ministries and other domestic as well as international actors such as the European Commission, develops the initial German position towards a European policy issue (see Annex I). This has the advantage that the unit with the most expertise is in charge of

61 Greenwood, Justin (2003). *Interest Representation in the EU*. Basingstoke: Palgrave Macmillan, p. 42.

62 Bulmer (2001), p. 4f, p. 17.

63 See Fuchs (2004).

the matching EU policy. While the position for Coreper is aligned in two special committees, instructions for the working groups are directly conferred to the delegates in the Permanent Representation or brought forward by the responsible civil servant from Berlin<sup>64</sup>. 70 % of all EU policies are decided in the working groups. Less than 20 % are passed on to the Coreper, and the Council of Ministers only examines the remaining political disputes<sup>65</sup>. This underlines the importance of the low-level working groups and an early positioning in the EU decision-making process<sup>66</sup>

If there are new policy issues or disputes, vertical EU coordination committees become involved (see Annex II). Every Tuesday, the Coreper Coordination Committees with representatives from all ministries that are involved in pending issues meet in order to align the German activities. These are split according to the Council formations; the Ministry of Economics sharing the Coreper I, and the Foreign Ministry the Coreper II Committee. If no coherent position can be found between the departments, the topic is passed on to the Head of Department Committee for EU affairs (EU-AL<sup>67</sup>). They come together approximately once a month. The committee assisted by the deputy of the Permanent Representative prepares the general German line on working group level. Remaining issues are discussed in the Committee of State Secretaries for European Affairs, which is the highest-ranking administrative committee. This committee normally meets subsequent to the EU-AL<sup>68</sup>. In the normal policy process, European legislation is only rarely passed on to the Cabinet. Then, the outcome depends on the power position of the minister that is in charge of the policy field. In theory, the Chancellor has the final competence to decide.<sup>69</sup> In earlier times, a special EU formation in the Cabinet followed the EU legisla-

64 Thomas (2006), p. 163.

65 Hayes-Renshaw, Fiona & Wallace, Hellen (1997). *The Council of Ministers*, London: Macmillan, p.78.

66 See Janowski, Cordula (2006). *Die nationalen Parlamente und ihre Europa-Gremien*. Baden Baden: Nomos.

67 Europaabteilungsleiter (EU-AL) - Heads of Units with EU relevance.

68 Prior and during the German Council Presidency the committees meet more frequently and earlier in the same week or even the week before. Then, Germany also has to align its position with the Council's Secretariat.

69 Thomas (2006), pp.163 – 166.

tive process. Due to the extension of EU competences and legislation this is not possible anymore. Nevertheless, a regular report of the EU State Minister in the Cabinet would integrate EU affairs better and support a coherent German position. The complex decision and coordination structures might obstruct effective national interest representation but on the other hand corresponds to the European policy process. However, due to the intransparent system there is a clear deficiency in the governmental communication and public dialogue about German EU policies.

### *Communication of German EU Policy*

In Brussels, the Permanent Representation of Germany coordinates the contact with the media. In Berlin, the Public Office for Information of the German government is formally responsible for domestic public relations also with regard to European affairs. However recent years have shown that the complex internal structure can be an impediment to consistent and successful EU-communication<sup>70</sup>. The Foreign Ministry tried to close the gap between government action and public information. Together with the Public Office for Information, the German representation of the European Parliament and the Commission, it established a round table on European affairs. The goal is to regularly inform civil society actors about German EU policy, especially before the country assumes the Council Presidency in 2007. The round table discussions focus on a specific topic and contribute to the *Aktion Europa* of the German Government and the European Commission. This initiative has the goal to improve the image of the EU in German society. The European Commissioner for Communication, Wallström emphasised the need for better information policies in the so-called Plan D<sup>71</sup> and a Commission White Paper<sup>72</sup>. Plan D postulates that it is “the

70 Wulf-Mathies Monika & Hüttemann, Bernd (09/2005) Der deutsche Patient im Lazarett Europa Zur Europa Koordination und -Kommunikation in Deutschland, EU in Brief Berlin, Netzwerk Europäische Bewegung.

71 Commission of the European Communities. The Commission's contribution to the period of reflection and beyond: Plan-D for Democracy, Dialogue and Debate, Brussels: COM (2005) 494 final.

72 Commission of the European Communities. White paper on a European communication policy, Brussels: COM (2006) 35 final.

responsibility of governments, at national, regional and local level, to consult and inform citizens about public policy – including European policies and their impact on people's daily lives – and to put in place the forums to give this debate life"<sup>73</sup>. The Foreign Ministry's initiative contributes to this endeavour, it is however only one of the ministries responsible for EU policies. The coordination between the Public Office for Information and the magnitude of German actors involved in EU policies remains difficult. In contrast to the coalition treaty of the current government, which pledged: "We have to recover lost confidence of the people and [...] inform them better about the development of European policies"<sup>74</sup> Germany still lacks a coherent European communication strategy. The new information law<sup>75</sup> (*Informationsfreiheitsgesetz*), which enables citizens to access internal administrative papers, in theory even the early-warning reports from the Permanent Representation, is a first step towards more transparency. Through more information and dialogue, the support of German society for the EU could be raised again. The stagnation of the European integration process, exemplified by the negative referenda on the European Constitutional Treaty and the extension of the reflection phase, can only gain momentum again with the European citizens.

## **5. Conclusions**

In Germany, the support for European integration is enshrined in Art. 23 GG. It obliges political actors and the administration to align domestic interests with European goals. The comparison between the old and new government in the framework of continuity and change underlines the continuity of Germany's relations towards the EU. The main opponents in the last electoral campaign did not dispute European integration as such. The new government even restored traditional priorities of German EU policy. While Chancellor Schröder focused more on cooperation with bigger

<sup>73</sup> Commission (2006), p.5.

<sup>74</sup> Coalition Treaty (2005), p.126.

<sup>75</sup> Law to regulate the access to information of the federal government, Informationsfreiheitsgesetz (IFG) (BGBl. I S. 2722, 1. January 2006).

(member) states and pursued a self-assured German foreign policy, the current government emphasises multilateral cooperation in the European framework. The comparison of the coalition treaties as basis for all government action underlines the shift from bilateral relations between Germany and France towards European cooperation. However, in daily politics the pro-European stance of Chancellor Merkel's government is constrained by domestic policy problems. This leads to an increasing gap between political visions with regard to the EU and real political action. Further integration such as a common European energy policy is only supported by the German government if absolutely necessary. During the Council Presidency in 2007 the German delegates have to act in the interest of the Community, which might show that common interest representation is more successful than short-time national prerogatives.

The continuity and even restoration of German EU policy as seen in the policy part is also reflected in the institutional structure. The traditional separation of power between the Ministry of Economics and the Foreign Ministry has been restored and now even more actors are involved in the decision-making process. Pressures of Europeanisation to centralise and examples of other member states have not been strong enough to alter the basic structure of the German state. The departmental principle permits the direct involvement of ministerial experts in the increasingly complex European legislation process and makes EU affairs an intrinsic part of the national policy process. Moreover, the consolidation of German EU policy coordination within one ministry or even the Chancellor's Office has not enough political support. Next to the inter-ministerial struggle for competence, the German coalition governments favour a split of responsibility, all the more so as the equal parties in the current grand coalition want to retain their influence on European policies. Nevertheless, a streamlined coordination could not only strengthen the German interest representation but also contribute to the communication and public dialogue about German EU policies.

As a first step, European conferences with parliamentarians from all governmental levels could foster the discourse on daily EU politics and future perspectives of German EU policies. This is especially important in the

current reflection phase and as Germany is supposed to develop a road map for future integration during its Council Presidency in 2007. There, the government should report on the German policy agenda with regard and in correspondence to EU initiatives<sup>76</sup>. Today's roundtable on European affairs could contribute scientific expertise to the political discourse.

Moreover, the distribution of competences in and between the German federal ministries could be streamlined. At the moment all ministries feature different organisation structures, which range from a single EU unit where all EU affairs come together to no coordination within the respective ministry. A common structure in all ministries would be helpful. Furthermore, the policy fields that are assigned to the Ministry of Economics, the Foreign Ministry and further actors do not always follow the logic of Coreper I and II. In addition, some policies do not correspond to the actual expertise of the coordinating unit and some are assigned to several ministries. Even though the distribution of competences has developed incrementally a disentanglement and distribution of power to the least possible actors is necessary. As the centralisation of EU competence in the German Federal Government is no option, the Permanent Representation in Brussels will also in the future play a decisive role to streamline the German position. The delegates however depend on early positioning and instructions from Berlin.

In the first months of its mandate the grand coalition has cooperated well in European affairs. However, all actions need to balance the interest of the almost equal coalition partners. The change in government has not led to an overall change in German EU policy. This is due to the continued internal division of EU competences and the lack of political will to amend this. It is important that European affairs are not subordinated to domestic power struggles. This requires a consequent leadership of the German Head of Government, the Chancellor. Challenges such as the Council Presidency in Spring 2007 and the reestablishment of European integration impetus require German EU *capability*. The country is bound to continuity in its

76 Kühnhardt, Ludger (12/2005) Deutschlands Europapolitik verbessern. in: Die politische Meinung, Vol. 433 Europa, quo vadis?, pp.19-28, 22.

## The new German European Policy

policy and organisation structure. It has until now played an important role in the European integration process. However, actors and processes constantly need to adapt to an expanding EU and changing prerequisites of European cooperation.

## Annex I: Departments (*Abteilungen*) and Units (*Referate*) in the German Federal Ministries that are responsible for European Affairs

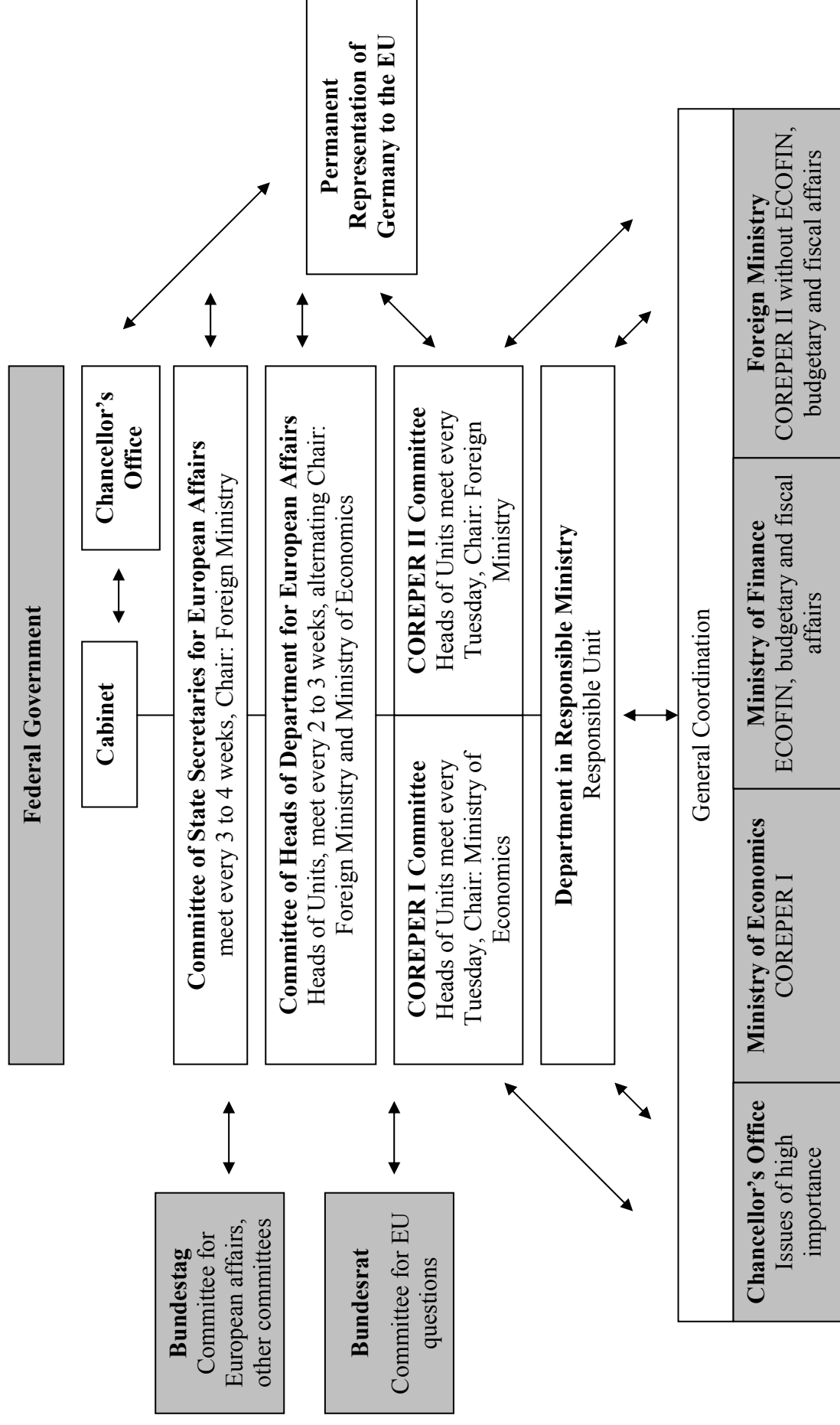
(Retrieved from the website of the German Government on 10 June 2006, <http://www.bundesregierung.de>)

Ministry	Department n°	Units and task forces
<b>Employment and Social Policies</b>	VI a EU	5 units; task force preparation of the German Presidency of the Council of the EU in 2007
<b>Foreign Policies</b>  Chair of the Committee of State Secretaries for European affairs	E Europe  2 Political Department	9 units; relations with EU institutions, bilateral relations and enlargement; EU-Coordination unit (E-KR), task force German Council Presidency (AS-EU2007), task force German-French relations (F-V & AS-F), CFSP and ESDP (EU KOR ) Bilateral relations and CFSP
<b>Interior</b>	G II, Europe & international developments	2 units; task force German Council Presidency
<b>Justice</b>	IV International & European law	Principle and legal questions of the EU
<b>Finance</b>	E European Policies	17 units, mostly financial but also general EU affairs as well as EU law
<b>Economics and Technology</b> d EU coordination and deputy chair of EU State Secretary Committee	E European Policies	11 units, general coordination and e.g. Internal Market, European funds and bilateral relations, Germany's representation at ECJ, other units are dispersed in the different departments concerning e.g. SME, IT and energy policies
<b>Nutrition, Agriculture and Consumer Protection</b>	6 EU, international affairs, fisheries	9 units
<b>Defence</b>	PlStab Planning staff Fü S III Military policies and defence supervision R Law	1 unit , ESDP, EU; Western European Union  2 units
<b>Families, the Elderly, Women and Youth</b>	Coordination European Policies, Commissioner for European affairs (only ministry with central coordination) 5 children and youth	Commissioner at the Permanent Representation (INT)  European Youth Policies
<b>Health</b>	E European health policies 3 Prevention, & disease control	3 units, representative for Health at Permanent Representation  European and international affairs
<b>Traffic, Construction and Urban Development</b>	A General affairs	European and international traffic cooperation
<b>Environment, Environmental Protection and Reactor Safety</b>	KI Climate protection, renewable energies WA Water	2 units  General and principal as well as international and European affairs of the water industry (WA I 1)
<b>Education and Research</b>	2 European cooperation 7 Research	6 units  European Research Organisations (715)
<b>Economic Cooperation and Development</b>	3 European policies	EU
<b>Chancellor's Office</b>	5 European policies	General and foreign affairs; EU Presidency Coordination of EU policies with economic aspects



## Annex II: German Coordination and Decision-Making in European Policies

(based on the Organisation Order, effective from 11<sup>th</sup> of November 2005 (BKOrg Erl 2005) & Thomas & Wessels, (2006), p.139).



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